

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,602

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her Medicaid eligibility based on excess income until she incurs \$774 in medical expenses in the six month period beginning September 1, 1996.

FINDINGS OF FACT

1. The petitioner and her husband both receive Social Security disability benefits. The petitioner's gross benefit is \$260 per month and her husband's is \$572 per month. They receive no other income. The petitioner has \$42.50 per month deducted from her Social Security check in order to pay the premium on her Medicare Part B coverage. The Department is currently investigating whether it can pick up that premium but has made no final decision on that matter and it is not a subject of this appeal.
2. The Department, using figures provided by the petitioner, calculated the family's Medicaid income by adding together both of their gross incomes and deducting a \$20 disability deduction from the total for a countable figure of \$812 per month. That figure was compared to a monthly protected income level for two people of \$683 per month. The difference of \$129 per month was determined to be the amount the couple must incur for medical expenses before they can become Medicaid eligible. That amount multiplied by the six month accounting period resulted in a total spenddown of \$774 before Medicaid eligibility could be re-established.
3. The petitioner disputes the calculations above because she believes that she should not have her gross check counted toward her eligibility, but rather the amount she actually receives in her check after the Medicare deduction is taken out, or \$218 per month. She believes that she should only have \$175 ascribed to her in October of 1996, due to the Social Security Administration deducting the premium for two months, September (retroactively) and October (currently) of 1996. The Department does not dispute that those deductions occurred but says they cannot be deducted from the countable income, although they can be applied toward her spenddown as an incurred medical expenses for each month.

4. The petitioner presented evidence that she has necessary expenses for housing, food and her automobile expenses which amount to \$799.12, \$9.12 more than her net income. She has considerable medical expenses, including \$300 in prescriptions each month which are picked up through the VHAP program and Medicare. However, she wants to get her Medicaid back because it picked up co-payments and deductibles under both those programs. She has no money left after her current expenses to pick up those amounts.

ORDER

The decision of the Department is affirmed.

REASONS

Under the Medicaid regulations at M242(1) the full amount of Social Security income must be counted in determining eligibility for Medicaid benefits. Certain deductions, primarily for child support or work expenses, are allowed in order to obtain a net countable income figure, including a \$20 blanket disregard from unearned income for aged, blind or disabled persons. M243.1(2). No deductions are allowed for household expenses.

In this case, the Department followed the applicable regulations to calculate the petitioner's countable income of \$812 per month. She received the \$20 disability disregard and has shown no facts under which any other disregards can be applied. Under the procedures adopted by the Department, a group consisting of two disabled persons cannot be eligible unless it has \$683 per month or less. P2420-B.

However, under M402, "a person who passes all eligibility tests, except that his or her Medicaid group's monthly income is more than any other income tests for which he/she may be eligible may qualify. . . " if he can "show that his or her Medicaid group has paid or incurred medical expenses . . . at least equal to the difference between its countable income and its Protected Income Level." A six month accounting period is employed to make this determination. M414. The Department determined that the petitioner had to incur \$774 before she can be Medicaid eligible. That amount was calculated by taking the difference between the \$812 in countable income and the \$683 protected income level, or \$129, and multiplying that excess by 6 months. The petitioner can use her Medicare deductions to meet that \$774 figure. As the methodology employed is consistent with the regulations and procedures, this determination must be upheld. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17.

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